THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 9041 OF 2005

15th December, 2005

Between:

J.Brunda …Petitioner

A n d

1. Revenue Divisional Officer, Mahabubnagar and Others

…Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 9041 OF 2005

O R D E R :

1. This writ petition has been filed assailing the order of the Revenue Divisional Officer, Mahabubnagar-1st respondent in Appeal Case No. B/ROR/944/2005.

2. Respondents No. 3 to 5 herein are the appellants before the Revenue Divisional Officer. They filed the appeal questioning the order passed by the Recording

Authority-Mandal Revenue Officer-Amangal Mandal, Mahabubnagar District-2nd respondent. The appellate authority entertained appeal as Appeal Case No. B/ROR/944/2005 and issued notice to the petitioner herein directing him to appear on 19-3-2005 at 11-00 a.m. It appears the appellants before the Revenue Divisional Officer moved an application for interim stay of the order dated 11-9-2003 passed by the Mandal Revenue Officer, Amangal, pending the appeal. According to the petitioner, the appellate authority-Revenue Divisional Officer, without serving copy of the stay petition proceeded to pass the order impugned in the writ petition. The order impugned in the writ petition reads as follows:

> "*The appellants have filed an appeal aggrieved by the orders of Mandal Revenue Officer, Amangal, Dt. 11-09-2003 passed in File NO. ROR/B/283/2003 together with a petition under Rule 5 of Limitation Act and requested to suspend the proceedings of MRO and also requested to grant stay to all further Progs. in file NO. ROR/B/283/2003 on the file of the Mandal Revenue Officer, Amangal pending disposal of the appeal presented to Revenue Divisional Officer, Mahabubnagar.*
>
> *The counsel for the petitioner has approached this office on 02-04-2005 and requested to grant stay pending disposal of final case. Heard the contents of the petition through counsel and perused the other material filed in support there of and after hearing the arguments of Sri Neeli Narsappa, Advocate for the appellants, it is ordered that the operation of the order of Mandal Revenue Officer, Amangal Dt. 11-09-2003 in file NO. ROR/B/283/2003 be stayed. The Mandal Revenue Officer, Amangal is hereby directed to comply the orders accordingly.*
>
> *The receipt of this order will be deemed to be the receipt of notice in this case. The case will be taken up for hearing the main appeal on 18-06-2005".*

Hence, this writ petition.

3 Counter affidavit has been filed by the respondents No.3to 5.

4. Heard learned counsel for the petitioner, learned Government Pleader for Revenue appearing for the respondents 1 and 2 and learned counsel appearing for Respondents No. 3 to 5.

5. Learned counsel for the petitioner submits that appellate authority-1st respondent without serving a copy of the stay petition on the petitioner proceeded to pass order

impugned in the writ petition, despite the fact that the petitioner entered appearance through counsel on 19-3-2005.

6. The learned counsel appearing for the respondents NO. 3 to 5 submits that the order impugned in the writ petition came to be passed after putting on notice to the petitioner herein and thus the order impugned in the writ petition is not liable to be set aside.

7. Copy of the notice served on the petitioner by the appellate authority directing him to appear on 19-3-2005 at 11-00 a.m. has been placed on record. It is the specific stand of the petitioner that the petitioner entered appearance before the appellate authority on 19-3-2005 at 11-00 a.m. and that the appellate authority without serving copy of the petition moved by the respondents 3 to 5 seeking interim stay proceeded to pass order impugned in the writ petition. No material has been placed before me by the respondents 3 to 5 that the copy of the petition seeking interim stay has been served on the petitioner.

7. In that view of the matter, I am in doubt to conclude that the order passed by the appellate authority granting interim stay of the proceedings is in violation of the principles of natural justice. When the petitioner entered appearance on 19-3-2005 before the appellate authority, subsequent application seeking interim stay by respondents No. 3 to 5 herein, who are the appellants in the appeal, must have been moved on serving copy of the same on the petitioner.

8. In the result, the writ petition is allowed setting aside the order in appeal Case No. B/ROR/944/2005. However, the appellate authority is directed to dispose of the appeal within six weeks from the date of receipt of a copy of this order. No order as to costs.

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Justice B.Seshasayana Reddy

15th December, 2005

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W.P.No. 9041 OF 2005

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